JS 44 (Rev. 02/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

NACCO MATERIAL HANDLING GROUP AS SUCCESSOR TO

ÞÁÐRIÐAÐENZABENN S	MEAL, ET AL			NACES MATERIA HYSTER COMPA		ING GROUP	AS SUCCES	SOR T	0
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(c) Attorneys (Firm Name, JAMES IONG, Esquire, É York, NY 10036	ddiress and Telephone Numbe Belluck & Fox, 546 Fift	h Avenue, 4th Floo	r, New	Attomeys (If Known) Brian Cocoran, Est One South Penn S Philadelphia, PA 1	Square, Su		Henrich		
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VII. REQUESTED IN COMPLAINT:	CHECK IF THIS UNDER RULE 2	IS A CLASS ACTION 3, F.R.Cv.P.	y D	EMAND S		HECK YES only URY DEMAND	A 1500	complair	nt:
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DATE 12/16/2019 FOR OFFICE USE ONLY		SIGNATURE OF AT	TORNEY	OF RECORD					den militarita
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JS 44 Reverse (Rev. 02/19)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.
- V. Origin. Place an "X" in one of the seven boxes.
 - Original Proceedings, (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation - Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.



UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

5950

DESIGNATION FORM (to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar) 71 Maytown Avenue, Elizabethtown, PA 17022 Address of Plaintiff: Address of Defendant: 5875 Landerbrook Drive, Suite 300 Cleveland, OH 44124 New Cumberland Army Depot Place of Accident, Incident or Transaction: RELATED CASE, IF ANY: Judge: _____ Date Terminated: ____ Case Number: Civil cases are deemed related when Yes is answered to any of the following questions: Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? I certify that, to my knowledge, the within case is A is not related to any case now pending or within one year previously terminated action in this court except as noted above. DATE: 12/16/2019 203392 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable) CIVIL: (Place a v in one category only) Diversity Jurisdiction Cases: Federal Question Cases: Insurance Contract and Other Contracts Indemnity Contract, Marine Contract, and All Other Contracts Airplane Personal Injury Assault, Defamation Jones Act-Personal Injury 3. 4. Marine Personal Injury Antitrust Motor Vehicle Personal Injury Patent Other Personal Injury (Please specify): Labor-Management Relations Products Liability Civil Rights 7. Products Liability - Asbestos 8. Habeas Corpus All other Diversity Cases Securities Act(s) Cases (Please specify): Social Security Review Cases 11. All other Federal Question Cases Federal Enclave (Please specify): ___ ARBITRATION CERTIFICATION (The effect of this certification is to remove the case from eligibility for arbitration.) _, counsel of record or pro se plaintiff, do hereby certify: Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs: Relief other than monetary damages is sought.

Attorney-at-Law / Pro Se Plaintiff

12-16-19

NOTE: A trial de novo will be a trial by jury only in there has been compliance with F.R.C.P. 38.

Attorney I.D. # (if applicable)

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM
Patricia Elizabeth Smeal, et al.

Tel ephone	FAX Nur	nber	E-Mail Address	
(215) 972-5200	(215) 97	2-0405_	bcorcoran@rmh-law.com	
Date	Attorney-	at-law	Attorney for	
12-16-19	Br Cr		Hyster-Yale Group, Inc	;. <u> </u>
(f) Standard Management -		ot fall into a	ny one of the other tracks. ()
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SELECT ONE OF THE F	OLLOWING C	ASE MANA	AGEMENT TRACKS:	
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Patricia Elizabeth Sm	car, or ar.	:	CIVIL ACTION	

(Civ. 660) 10/02

APPENDIX G

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

	LIZABETH SMEAL,	*	
ET AL	•	· •	0.44
	V.	. • . •	Civil Action No:
CLARK EQU ET AL	IPMENT COMPANY,	.	INO,
	DISCLOS	SURE STATEMENT	FORM
Please chec	ck one box:		
	The nongovernmenta, in the above listed couplicly held corporate	ivil action does not h	ave any parent corporation and r more of its stock.
v	The nongovernmenta , in the above listed c publicly held corporat	ivil action has the foll	lowing parent corporation(s) and
	Hyster-Yale Group, Inc. i	identifies as its parent cor	mpany Hyster-Yale
	Materials Handling, Inc.	No other publicly held co	ompany owns more than
	10% of Hyster-Yale Grou	ıp, Inc.	
12/16/2019		Bl	Noneturo
Date		3	sgnature
	Counse	l for: Hyster-Yale Gro	oup, Inc.
	<u> </u>	, <u></u>	
Federal Ru (a)	two copies of a disclo	TENTS. A nongovernosure statement that:	nmental corporate party must file and any publicly held corporation
	(2) states that the	re is no such corpora	ation,
(b) T	petition, motion	ure statement with its n, response, or other	must: s first appearance, pleading, r request addressed to the court; nent if any required information
	(2) promptly file a changes.	adphismontal statem	nonchi any roquiou information

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSLYVANIA

PATRICIA ELIZABETH SMEAL EXECUTRIX OF THE ESTATE OF GORDON CARL SMEAL, SR. INDIVIDUALLY AND IN HER OWN RIGHT

PLAINTIFFS,

VS.

CLARK EQUIPMENT COMPANY C/O
CT CORPORATION SYSTEMS
and
NACCO MATERIAL HANDLING GROUP
AS SUCCESSOR TO HYSTER COMPANY,

DEFENDANTS.

CIVIL ACTION

NO.

NOTICE OF REMOVAL

Defendant, NACCO Material Handling Group now known as Hyster-Yale Group, Inc., a Delaware corporation ("Defendant Hyster-Yale Group"), by its attorneys, Reilly, McDevitt & Henrich hereby file this Notice of Removal from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania on the basis of diversity jurisdiction and Federal Enclave and based on the following:

- Plaintiff commenced this action by Complaint filed on November 1, 2019 in the
 Court of Common Pleas of Philadelphia County, Pennsylvania docketed as November
 2019 Term, No. 00138. (A copy of the Complaint is attached hereto and marked as
 Exhibit A).
- 2. The Complaint was served on Defendant Hyster-Yale Group on November 19, 2019.

- 3. The Complaint states that Plaintiffs, Gordon Carl Smeal and Patricia Elizabeth Smeal, are citizens of the Commonwealth of Pennsylvania, residing at 71 Maytown Avenue, Elizabethtown, PA 17022. Therefore, upon information and belief, Plaintiffs are citizens of the Commonwealth of Pennsylvania.
- 4. Defendant Hyster-Yale Group is incorporated in Delaware with a principal place of business in Cleveland, OH.
- 5. Defendant Hyster-Yale Group is not incorporated in Pennsylvania and its principal place of business has never been Pennsylvania. Therefore, Defendant Hyster-Yale Group is not a resident of Pennsylvania.
- 6. Defendant, Clark Equipment Company, is incorporated in Delaware with a principal place of business in West Fargo, ND.
- 7. In 1992, the material handling assets and liabilities of Clark Equipment Company, associated with its forklift business, were transferred to Clark Material Handling Company, which remains in existence today as a separate and distinct entity not under the control, supervision or guidance of Clark Equipment Company.
- 8. Prior to the transfer in 1992, Clark Equipment Company had its headquarters in South Bend, IN with its principal manufacturing facilities for its forklift business in Michigan.
- Defendant Clark Equipment Company is not incorporated in Pennsylvania and its principal place of business has never been Pennsylvania. Therefore, Clark is not a resident of Pennsylvania.
- 10. Based upon the allegations of Plaintiff's Complaint, the amount in controversy in this action is in excess of Seventy-Five Thousand Dollars (\$75,000), exclusive of costs

- and interest, as Plaintiffs' have alleged damages in excess of \$50,000 in the Complaint.
- 11. As such, this Honorable Court has jurisdiction pursuant to the provisions of 28 U.S.C. § 1332 based upon the fact that there exists a diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.
- 12. Pursuant to 28 U.S.C. § 1441(b), the Defendant is not a citizen of Pennsylvania where the action was brought. This lawsuit could have been brought originally before this Honorable Court under 28 U.S.C. § 1332. Therefore, this lawsuit is properly removed to this Honorable Court pursuant to 28 U.S.C. § 1441.
- 13. Additionally, Plaintiff has previously claimed his asbestos exposure occurred while working on forklifts for thirty-eight years at the New Cumberland Army Depot in Smeal v. Air & Liquid Ss. Corp., 2019 NY Slip Op 334444(U) ¶ 1 (Sup. Ct.). (See G. Smeal Dep. 106-107 attached as Exhibit B).
- 14. "Personal injury actions which arise from incidents occurring in federal enclaves may be removed to federal district court as a part of federal questions jurisdiction."
 Smelser v. Sandia Corp., 2018 U.S. Dist. LEXIS 54037, citing Allison v. Boeing
 Laser Tech. Services, 689 F.3d 1234, 1235 (10th Cir. 2012).
- 15. New Cumberland Army Depot is a federal enclave, as it has been referred to as such by the Third Circuit Court of Appeals. <u>United States v. White</u>, 145 Fed. Appx. 786, 2005 U.S. App. LEXIS 21377 at 1.
- 16. Presently, Plaintiff is claiming he was exposed to asbestos through his work at New Cumberland Army Depot.
- 17. Therefore, this lawsuit is properly removed to this Honorable Court through Federal

Enclave jurisdiction since the New Cumberland Army Depot is a federal enclave.

- 18. Defendant Hyster-Yale Group consents and joins in removal with Defendant Clark Equipment Company.
- 19. This Notice of Removal has been filed within thirty days after receipt by Defendant of the Complaint in accordance with 28 U.S.C. § 1446(b).
- 20. Copies of all process, pleadings and other Orders which have been received by Defendant in this action are filed herewith.

WHEREFORE, Defendant, Hyster-Yale Group, respectfully requests that it may affect the removal of this action from the Court of Common Pleas of Philadelphia County, Pennsylvania to the Unites States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

Reilly, McDevitt & Henrich, P.C.

Brian P Corcoran

PA Attorney ID No. 203392

bcorcoran@rmh-law.com

Joseph Reilly

PA Attorney ID No. 319677

jreilly@rmh-law.com

One South Penn Square Suite 400

Philadelphia, PA 19107

(215) 972 - 5200

Date: 1416/19

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSLYVANIA

PATRICIA ELIZABETH SMEAL EXECUTRIX OF THE ESTATE OF GORDON CARL SMEAL, SR. INDIVIDUALLY AND IN HER OWN RIGHT

PLAINTIFFS,

vs.

CLARK EQUIPMENT COMPANY C/O
CT CORPORATION SYSTEMS
and
NACCO MATERIAL HANDLING GROUP
AS SUCCESSOR TO HYSTER COMPANY,

DEFENDANTS.

CIVIL ACTION

NO.

CERTIFICATION

I, Brian Corcoran, Esquire, hereby certify that the facts set forth in the foregoing Notice of Removal are true and correct to the best of my knowledge, information and belief.

Reilly, McDevitt & Henrich, P.C.

Brian P. Corcoran

PA Attorney ID No. 203392

bcorcoran@rmh-law.com

One South Penn Square Suite 400

Philadelphia, PA 19107

(215) 972 - 5200

Date: 12/16/19

PATRICIA ELIZABETH SMEAL EXECUTRIX OF THE ESTATE OF GORDON CARL SMEAL, SR. INDIVIDUALLY AND IN HER OWN RIGHT

PLAINTIFFS,

VS.

CLARK EQUIPMENT COMPANY C/O
CT CORPORATION SYSTEMS
and
NACCO MATERIAL HANDLING GROUP
AS SUCCESSOR TO HYSTER COMPANY,

DEFENDANTS.

CIVIL ACTION

NO.

CERTIFICATION

I, Brian Corcoran, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Removal was served upon the following party via electronic service, on the below date:

James C. Long Belluck & Fox, LLP 546 Fifth Avenue, 5th Floor New York, NY 10036

Reilly, McDevitt & Henrich, P.C.

Brian P. Corcoran

PA Attorney ID No. 203392

bcorcoran@rmh-law.com

One South Penn Square Suite 400

Philadelphia, PA 19107

(215) 972 - 5200

Date: 12/6/19

EXHIBIT "A"

■ BELLUCK & FOX...

546 Fifth Avenue, 4th Floor, New York, New York 10036 Tel (212) 681-1575 Fax (212) 681-1574 www.belluckfox.com

May 11, 2017

Via Certified Mail, RRR
Nacco Materials Handling Group, Inc.
5875 Landerbrook Drive, Suite 300
Cleveland, OH 44124

Re: Patricia Elizabeth Smeal, Executrix of The Estate of Gordon Carl Smeal, Sr.,
Individually And In Her Own Right v. Nacco Materials Handling Group,
Inc., et al.

Dear Counsel:

Enclosed please find one true and correct copy of Plaintiff's Complaint for the above-captioned case, the original of which has been duly filed with the Court. Service of this Complaint is being effected under the applicable Pennsylvania Rules of Civil Procedure.

Kindly forward this Complaint to your carrier for proper response and request that they advise us if they need an extension of time to answer or otherwise plead.

Thank you for your courtesies.

Sincerely,

Shari Franklin Paralegal

Enclosures



BELLUCK & FOX, LLP
BY: JAMES C. LONG, ESQUIRE
ATTORNEY IDENTIFICATION NO. 22098
546 FIFTH AVENUE, 5^{TR} FLOOR
NEW YORK, NY 10036
(212) 681-1575

ATTORNEY FOR PLAINTIPF(S)

Plaintiffs:

PATRICIA ELIZABETH SMEAL, EXECUTRIX OF THE ESTATE OF GORDON CARL SMEAL, SR., INDIVIDUALLY AND IN HER OWN RIGHT 71 MAYTOWN AVENUE ELIZABETHTOWN, PA 17022 PHILADELPHIA COUNTY COURT OF COMMON PLEAS CIVIL TRIAL DIVISION

TERM

a' 30

No.

Defendants:

CLARK EQUIPMENT COMPANY C/O CT CORPORATION SYSTEMS 600 N. 2ND STREET, SUITE 401 HARRISBURG, PA 17101 ASBESTOS LITIGATION

COMPLAINT - CIVIL ACTION (2, PERSONAL INJURY) 26035 ASBESTOS

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the fellowing pages, you must take action within twenty (20) days after this complain and notice are served, by entering a written appearance personally or by attenuey and filing in writing with the court your defenses or objections to the claims sat forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other chaim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGIAL HELP.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
One Reading Center
Philadelphia, Pennsylvania 19107
Telephone: 215-238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, osted tiene veinte (20) dias de plaza al partif de la fecha de la demanda y la notificación. Hace falta asentar una compavesencia esertin o en persona o con un abogado y entregar a fa corte en forma esertie sus defassas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte poede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

> ASOCIACIÓN DE LICENCIADOS DE FILADELFÍA SERVICIO DE DEFERENCIA E INFORMACIÓN LEGAL One Reading Center Filadelfía. Pennsylvanía 19107 Telephone: 215-238-1701

NACCO MATERIAL HANDLING GROUP AS SUCCESSOR TO HYSTER COMPANY 5875 Landerbrook Drive, Suite 300 Cleveland, OH 44124

> Helluck & Fox, ilp Signifith avenue, ith floor i new York, NY 10036

Case ID: 191100138

4 54 6 6

3. 4. 3.5

BELLUCK & FOX, LLP
BY: JAMES C. LONG, ESQUIRE
ATTORNEY IDENTIFICATION NO. 22098
546 FIFTH AVENUE, 5TM FLOOR
NEW YORK, NY 10036
(212) 681-1575

ATTORNEY FOR PLAINTIFF(S)

Plaintiffs:

PATRICIA ELIZABETH SMEAL, EXECUTRIX OF THE ESTATE OF GORDON CARL SMEAL, SR., INDIVIDUALLY AND IN HER OWN RIGHT 71 MAYTOWN AVENUE ELIZABETHTOWN, PA 17022 PHILADELPHIA COUNTY COURT OF COMMON PLEAS CIVIL TRIAL DIVISION

TERM

排录盘 汤

No.

ASBESTOS LITIGATION

Defendants:

٧.

CŁARK EQUIPMENT COMPANY C/O CT CORPORATION SYSTEMS .600 N. 2ND STREET, SUITE 401 HARRISBURG, PA 17101

COMPLAINT - CIVIL ACTION (2. PERSONAL INJURY) 26035 ASBESTOS

Plaintiff incorporates by reference Plaintiffs' Master Long Form Complaint In Re: Asbestos Litigation in Philadelphia Court of Common Pleas, filed as of October Term, 1986, No. 8610-0001. Pursuant to an Order dated July 30, 1986 and signed by the Honorable Richard B. Klein and the Honorable Edward J. Blake the following short form complaint is utilized in this asbestos action.

1. This Complaint involves the claims of the following persons:

a. Plaintiff - Decedent:

Name:

Gordon Carl Smeal, Sr.

Address:

71 Maytown Avenue, Elizabethtown, PA 17022

Date of Birth:

April 15, 1938

Date of Death:

August 10, 2019

b. Spouse ("Plaintiff-Spouse"):

Name:

Patricia Elizabeth Smeal

Date of Birth:

April 2, 1945

c. Plaintiff (Executrix):

Name:

Patricia Elizabeth Smeal

- 2. Plaintiff brings this action by virtue of her as Executrix of decedent's estate. Plaintiff was appointed Executrix on August 28, 2019 in Lancaster County, Pennsylvania.
 - 3. Plaintiffs may have named as defendants other entities that may be responsible for the manufacture, distribution, and/or supply of products that contained asbestos, except that each of these entities has filed for relief or been forced into involuntary bankruptcy under the United States Bankruptcy Code and, pursuant to 11 U.S.C. 1362, the institution of actions against these entities is stayed.
 - A Defendant, CLARK EQUIPMENT COMPANY, is a corporation doing business in the Commonwealth of Pennsylvania. At times material hereto, defendant, Clark Equipment Company, manufactured, produced and sold either directly or indirectly, in the geographical area in which plaintiff worked and or to the employers of the plaintiff and or to contractors on job sites, asbestos-containing products and asbestos materials.
 - B. Defendant, NACCO MATERIAL HANDLING GROUP, As Successor to Hyster Company, is a corporation doing business in the Commonwealth of Pennsylvania. At times material hereto, defendant, NACCO Material Handling Group, manufactured, produced and sold either directly or indirectly, in the geographical area in which plaintiff worked and or to the employers of the plaintiff and or to contractors on job sites, asbestos-containing products and asbestos materials.
 - 5. Plaintiff's employment history, to the extent possible at this time, is attached hereto as Schedule 1.

- 6. Plaintiff was diagnosed with Mesothelioma on or about January 2018.
- 7. Plaintiff's smoking history is as follows: Plaintiff smoked approximately one pack per day from approximately 1955 to approximately 1974.
 - 8. A claim for lost wages will be asserted at time of trial, if applicable.

BELLUCK & FOX, LLP

James C. Long, Esquire

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Verification

I hereby certify that I am one of the Plaintiffs in the instant matter and that the facts contained herein are true and correct to the best of my knowledge, information and belief. This statement is made to the penalties of 18 PA C.S.A 4904 relating to unsworn falsification to authorities.

Patricia Elizabeth Smeal

PLAINTIFF'S WORK HISTORY - SCHEDULE 1

Commencement	Cessation	Employer	Job Description	
1957	1960	US Navy	Aviation Storekeeper	
1965	1968	Clayton Construction	Laborer	
1969	1969	Selecto Flash	Laborer	
1972	1974	Flack Bros.	Insulator	
1994	1998	New Cumberland Army Depot	Tool & parts attendant	

EXHIBIT "B"

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                  SUPERIOR COURT OF NEW YORK
1
                         NEW YORK COUNTY
2
  GORDON SMEAL and
3
  PATRICIA SMEAL,
4
              Plaintiffs,
                                          INDEX NO.
                                          190145/18
  vs.
                                          VOLUME II
  A.O. SMITH WATER PRODUCTS,
6
  et al.,
7
              Defendants.
8
9
        CONTINUED DISCOVERY DEPOSITION OF GORDON SMEAL
10
             Taken by the Defendants on the 4th day
11
             of October, 2018, by Cheryl Nicholas, CSR,
12
             RPR, at the Holiday Inn Harrisburg East,
13
             815 S. Eisenhower Boulevard, Middletown,
14
             Pennsylvania, at 10:08 a.m.
15
             Job No. 3014241
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1 A. Oh, yes. 2 Q. Okay. So when you were putting new product 3 on to the boilers can you walk me through the steps 4 that you took to do that? 5 A. Well, we would take the old off and then 6 clean it with rags and everything, brooms, get 7 everything down on the floor. Get the dust up. 9 And then we would start measuring around 10 the boiler, you know, if it's round or square or how 11 tall and staff. They already did that for us. They 12 had material there, the calcium to put on. 13 Them we'd start putting it on and wiring, 14 you know. Then we'd start putting it on and wiring, 15 you know. Then we'd start putting it on and wiring, 16 would harden up. 17 Q. Do you remember if that mud had any brand 18 or trade name associated with it? 19 A. No. 20 Q. Where —did your employer Flack Brothers 21 provide that material get to the work site? 22 Was that the material get to the work site? 23 Q. How did that material get to the work site? 24 Was that the material you picked up at the Harrisburg site? 25 site? 106 2 A. No, that was already delivered there. I dort know how long it had been there. But different product? 2 A. John company the site of the site of the product? 2 A. John company the product? 3 Q. What is the next job that you can recall having after Flack Brothers? 4 Q. Do you recall what year it was when you started working for the Nev Cumberland Army Depot. 3 Q. Do you recall what year it was when you started working for the Nev Cumberland Army Depot. 4 Q. How long did you work there? 5 A. Thiry-egity years. 6 Q. What was your job title at the New 107 108 MR, CHESTIA: I'n sacry, what was that? 109 MR, RYAN. Tool and parts attendant. 109 MR, RYAN. Tool and parts attendant. 100 MR RYAN. Tool and parts attendant. 100 MR RYAN. Tool and parts attendant. 101 MR MR RYAN. Tool and parts attendant. 102 MR RYAN. Tool and parts attendant. 103 MR CHESTIA: I'n sacry, what was the yound and the would be asked you than. 104 MR CHESTIA: I'n sacry, what was the yound and the way to make them. I want made them. I want mad		105		107
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